

AMENDED IN ASSEMBLY JULY 1, 2005
AMENDED IN ASSEMBLY JUNE 22, 2005
AMENDED IN SENATE MAY 27, 2005

SENATE BILL

No. 962

Introduced by Senator Chesbro
(Coauthor: Senator Alquist)

February 22, 2005

An act to amend Sections 1524, 1538, 1562, 1562.3, and 1562.4 of, to add Section 1538.55 to, and to add and repeal Article 9 (commencing with Section 1567.50) to Chapter 3 of Division 2 of, the Health and Safety Code, and to add and repeal Article 3.5 (commencing with Section 4684.50) to Chapter 6 of Division 4.5 of, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

SB 962, as amended, Chesbro. Adult Residential Facility for Persons with Special Health Care Needs: pilot project.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care and residential facilities by the State Department of Social Services. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.

Existing law establishes the State Department of Developmental Services and sets forth its duties and responsibilities, including, but not limited to, administration and oversight of the state developmental centers and programs relating to persons with developmental disabilities. Existing law, the Lanterman Developmental Disabilities Services Act, requires the department to allocate funds to private nonprofit regional centers for the provision of community services and

support for persons with developmental disabilities and their families. Violation of community care licensing provisions is a crime.

This bill would, until January 1, 2010, authorize the State Department of Social Services and the State Department of Developmental Services, to jointly establish and administer a pilot project for licensing and regulating Adult Residential Facilities for Persons with Special Health Care Needs, to the extent that funds are appropriated for this purpose in the annual Budget Act, and would make conforming changes. The bill would authorize entering into a contract for independent evaluation of the program, and would require a report to the Legislature by January 1, 2009. By changing the definition of crimes provided for under the California Community Care Facilities Act, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1524 of the Health and Safety Code is
- 2 amended to read:
- 3 1524. A license shall be forfeited by operation of law when
- 4 one of the following occurs:
- 5 (a) The licensee sells or otherwise transfers the facility or
- 6 facility property, except when change of ownership applies to
- 7 transferring of stock when the facility is owned by a corporation,
- 8 and when the transfer of stock does not constitute a majority
- 9 change of ownership.
- 10 (b) The licensee surrenders the license to the department.
- 11 (c) The licensee moves a facility from one location to another.
- 12 The department shall develop regulations to ensure that the
- 13 facilities are not charged a full licensing fee and do not have to
- 14 complete the entire application process when applying for a
- 15 license for the new location.

1 (d) The licensee is convicted of an offense specified in Section
2 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section
3 273d, 288, or 289 of the Penal Code, or is convicted of another
4 crime specified in subdivision (c) of Section 667.5 of the Penal
5 Code.

6 (e) The licensee dies. If an adult relative notifies the
7 department of his or her desire to continue operation of the
8 facility and submits an application, the department shall expedite
9 the application. The department shall promulgate regulations for
10 expediting applications submitted pursuant to this subdivision.

11 (f) The licensee abandons the facility.

12 (g) When the certification issued by the State Department of
13 Developmental Services to a licensee of an Adult Residential
14 Facility for Persons with Special Health Care Needs licensed
15 pursuant to Article 9 (commencing with Section 1567.50), is
16 rescinded.

17 SEC. 2. Section 1538 of the Health and Safety Code is
18 amended to read:

19 1538. (a) Any person may request an inspection of any
20 community care facility or certified family home in accordance
21 with this chapter by transmitting to the state department notice of
22 an alleged violation of applicable requirements prescribed by
23 statutes or regulations of this state, including, but not limited to,
24 a denial of access of any person authorized to enter the facility
25 pursuant to Section 9701 of the Welfare and Institutions Code. A
26 complaint may be made either orally or in writing.

27 (b) The substance of the complaint shall be provided to the
28 licensee or certified family home and foster family agency no
29 earlier than at the time of the inspection. Unless the complainant
30 specifically requests otherwise, neither the substance of the
31 complaint provided the licensee or certified family home and
32 foster family agency nor any copy of the complaint or any record
33 published, released, or otherwise made available to the licensee
34 or certified family home and foster family agency shall disclose
35 the name of any person mentioned in the complaint except the
36 name of any duly authorized officer, employee, or agent of the
37 state department conducting the investigation or inspection
38 pursuant to this chapter.

39 (c) Upon receipt of a complaint, other than a complaint
40 alleging denial of a statutory right of access to a community care

1 facility or certified family home, the state department shall make
2 a preliminary review and, unless the state department determines
3 that the complaint is willfully intended to harass a licensee or is
4 without any reasonable basis, it shall make an onsite inspection
5 of the community care facility or certified family home within 10
6 days after receiving the complaint, except where a visit would
7 adversely affect the licensing investigation or the investigation of
8 other agencies. In either event, the complainant shall be promptly
9 informed of the state department's proposed course of action.

10 If the department determines that the complaint is intended to
11 harass, is without a reasonable basis, or, after a site inspection, is
12 unfounded, then the complaint and any documents related to it
13 shall be marked confidential and shall not be disclosed to the
14 public. If the complaint investigation included a site visit, the
15 licensee or certified family home and foster family agency shall
16 be notified in writing within 30 days of the dismissal that the
17 complaint has been dismissed.

18 (d) Upon receipt of a complaint alleging denial of a statutory
19 right of access to a community care facility or certified family
20 home, the state department shall review the complaint. The
21 complainant shall be notified promptly of the state department's
22 proposed course of action.

23 (e) The department shall commence performance of complaint
24 inspections of certified family homes upon the employment of
25 sufficient personnel to carry out this function, and by no later
26 than June 30, 1999. Upon implementation, the department shall
27 notify all licensed foster family agencies.

28 (f) Upon receipt of a complaint concerning the care of a client
29 in an Adult Residential Facility for Persons with Special Health
30 Care Needs licensed pursuant to Article 9 (commencing with
31 Section 1567.50), the department shall notify the appropriate
32 regional center and the State Department of Developmental
33 Services for the purposes of investigating the complaint.

34 (g) Upon receipt of a complaint concerning the vendorization
35 of an Adult Residential Facility for Persons with Special Health
36 Care Needs, the department shall notify the State Department of
37 Developmental Services for purposes of investigating the
38 complaint.

39 SEC. 3. Section 1538.55 is added to the Health and Safety
40 Code, immediately following Section 1538.5, to read:

1538.55. (a) The licensee of an Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN), licensed pursuant to Article 9 (commencing with Section 1567.50), shall report to the department's Community Care Licensing Division, within the department's next working day and to the regional center with whom the ARFPSHN contracts, and the State Department of Developmental Services, within 24 hours upon the occurrence of any of the following events:

- (1) The death of any client from any cause.
- (2) The use of an automated external defibrillator.
- (3) Any injury to any client that requires medical treatment.
- (4) Any unusual incident that threatens the physical or emotional health or safety of any client.
- (5) Any suspected physical or psychological abuse of any client.
- (6) Epidemic outbreaks.
- (7) Poisonings.
- (8) Catastrophes.
- (9) Fires or explosions that occur in or on the premises.

(b) The licensee additionally shall submit a written report to the department's Community Care Licensing Division, the regional center with whom the ARFPSHN contracts, and the State Department of Developmental Services within seven days following any event set forth in subdivision (a), and shall include the following:

- (1) Client's name, age, sex, and date of admission.
- (2) The date and nature of event.
- (3) The attending physician's name, findings, and treatment, if any.
- (4) The disposition of the case.

(c) The department's Community Care Licensing Division shall notify the State Department of Developmental Services upon its findings of any deficiencies or of possible actions to exclude, pursuant to Section 1558, any individual from an ARFPSHN.

SEC. 4. Section 1562 of the Health and Safety Code is amended to read:

1562. The director shall ensure that operators and staffs of community care facilities have appropriate training to provide the care and services for which a license or certificate is issued. The

1 section shall not apply to a facility licensed as an Adult
2 Residential Facility for Persons with Special Health Care Needs
3 pursuant to Article 9 (commencing with Section 1567.50).

4 SEC. 5. Section 1562.3 of the Health and Safety Code is
5 amended to read:

6 1562.3. (a) The Director of Social Services, in consultation
7 with the Director of Mental Health and the Director of
8 Developmental Services, shall establish a training program to
9 ensure that licensees, operators, and staffs of adult residential
10 facilities, as defined in paragraph (1) of subdivision (a) of
11 Section 1502, have appropriate training to provide the care and
12 services for which a license or certificate is issued. The training
13 program shall be developed in consultation with provider
14 organizations.

15 (b) (1) An administrator of an adult residential care facility, as
16 defined in paragraph (1) of subdivision (a) of Section 1502, shall
17 successfully complete a department approved certification
18 program pursuant to subdivision (c) prior to employment.

19 (2) In those cases where the individual is both the licensee and
20 the administrator of a facility, the individual shall comply with
21 both the licensee and administrator requirements of this section.

22 (3) Failure to comply with this section shall constitute cause
23 for revocation of the license of the facility.

24 (4) The licensee shall notify the department within 30 days of
25 any change in administrators.

26 (c) (1) The administrator certification program shall require a
27 minimum of 35 hours of classroom instruction that provides
28 training on a uniform core of knowledge in each of the following
29 areas:

30 (A) Laws, regulations, and policies and procedural standards
31 that impact the operations of the type of facility for which the
32 applicant will be an administrator.

33 (B) Business operations.

34 (C) Management and supervision of staff.

35 (D) Psychosocial needs of the facility residents.

36 (E) Community and support services.

37 (F) Physical needs for facility residents.

38 (G) Use, misuse, and interaction of medication commonly
39 used by facility residents.

40 (H) Resident admission, retention, and assessment procedures.

1 (I) Nonviolent crisis intervention for administrators.

2 (2) The requirement for 35 hours of classroom instruction
3 pursuant to this subdivision shall not apply to persons who were
4 employed as administrators prior to July 1, 1996. A person
5 holding the position of administrator of an adult residential
6 facility on June 30, 1996, shall file a completed application for
7 certification with the department on or before April 1, 1998. In
8 order to be exempt from the 35-hour training program and the
9 test component, the application shall include documentation
10 showing proof of continuous employment as the administrator of
11 an adult residential facility between, at a minimum, June 30,
12 1994, and June 30, 1996. An administrator of an adult residential
13 facility who became certified as a result of passing the
14 department-administered challenge test, that was offered between
15 October 1, 1996, and December 23, 1996, shall be deemed to
16 have fulfilled the requirements of this paragraph.

17 (3) Unless an extension is granted to the applicant by the
18 department, an applicant for an administrator's certificate shall,
19 within 60 days of the applicant's completion of classroom
20 instruction, pass the written test provided in this section.

21 (d) The department shall not begin the process of issuing a
22 certificate until receipt of all of the following:

23 (1) A certificate of completion of the administrator training
24 required pursuant to this chapter.

25 (2) The fee required for issuance of the certificate. A fee of
26 one hundred dollars (\$100) shall be charged by the department to
27 cover the costs of processing the application for certification.

28 (3) Documentation from the applicant that he or she has
29 passed the written test.

30 (4) Submission of fingerprints. The department and the
31 Department of Justice shall expedite the criminal record
32 clearance for holders of certificates of completion. The
33 department may waive the submission for those persons who
34 have a current clearance on file.

35 (e) It shall be unlawful for any person not certified under this
36 section to hold himself or herself out as a certified administrator
37 of an adult residential facility. Any person willfully making any
38 false representation as being a certified administrator is guilty of
39 a misdemeanor.

1 (f) (1) Certificates issued under this section shall be renewed
2 every two years and renewal shall be conditional upon the
3 certificate holder submitting documentation of completion of 40
4 hours of continuing education related to the core of knowledge
5 specified in subdivision (c). For purposes of this section, an
6 individual who is an adult residential facility administrator and
7 who is required to complete the continuing education hours
8 required by the regulations of the State Department of
9 Developmental Services, and approved by the regional center,
10 shall be permitted to have up to 24 of the required continuing
11 education course hours credited toward the 40-hour continuing
12 education requirement of this section. Community college course
13 hours approved by the regional centers shall be accepted by the
14 department for certification.

15 (2) Every licensee and administrator of an adult residential
16 facility is required to complete the continuing education
17 requirements of this subdivision.

18 (3) Certificates issued under this section shall expire every two
19 years, on the anniversary date of the initial issuance of the
20 certificate, except that any administrator receiving his or her
21 initial certification on or after January 1, 1999, shall make an
22 irrevocable election to have his or her recertification date for any
23 subsequent recertification either on the date two years from the
24 date of issuance of the certificate or on the individual's birthday
25 during the second calendar year following certification. The
26 department shall send a renewal notice to the certificate holder
27 90 days prior to the expiration date of the certificate. If the
28 certificate is not renewed prior to its expiration date,
29 reinstatement shall only be permitted after the certificate holder
30 has paid a delinquency fee equal to three times the renewal fee
31 and has provided evidence of completion of the continuing
32 education required.

33 (4) To renew a certificate, the certificate holder shall, on or
34 before the certificate expiration date, request renewal by
35 submitting to the department documentation of completion of the
36 required continuing education courses and pay the renewal fee of
37 one hundred dollars (\$100), irrespective of receipt of the
38 department's notification of the renewal. A renewal request
39 postmarked on or before the expiration of the certificate is proof
40 of compliance with this paragraph.

(5) A suspended or revoked certificate is subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of subdivision (f) and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension. Delinquency fees, if any, accrued subsequent to the time of its revocation or suspension and prior to an order for reinstatement, shall be waived for one year to allow the individual sufficient time to complete the required continuing education units and to submit the required documentation. Individuals whose certificates will expire within 90 days after the order for reinstatement may be granted a three-month extension to renew their certificates during which time the delinquency fees shall not accrue.

(6) A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification training program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

(7) A fee of twenty-five dollars (\$25) shall be charged for the reissuance of a lost certificate.

(8) A certificate holder shall inform the department of his or her employment status within 30 days of any change.

(g) The certificate shall be considered forfeited under the following conditions:

(1) The administrator has had a license revoked, suspended, or denied as authorized under Section 1550.

(2) The administrator has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1522 or Section 1558.

(h) (1) The department, in consultation with the State Department of Mental Health and the State Department of Developmental Services, shall establish, by regulation, the program content, the testing instrument, the process for approving certification training programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification training programs and

1 continuing education courses. These regulations shall be
2 developed in consultation with provider organizations, and shall
3 be made available at least six months prior to the deadline
4 required for certification. The department may deny vendor
5 approval to any agency or person in any of the following
6 circumstances:

7 (A) The applicant has not provided the department with
8 evidence satisfactory to the department of the ability of the
9 applicant to satisfy the requirements of vendorization set out in
10 the regulations adopted by the department pursuant to
11 subdivision (i).

12 (B) The applicant person or agency has a conflict of interest in
13 that the person or agency places its clients in adult residential
14 facilities.

15 (C) The applicant public or private agency has a conflict of
16 interest in that the agency is mandated to place clients in adult
17 residential facilities and to pay directly for the services. The
18 department may deny vendorization to this type of agency only
19 as long as there are other vendor programs available to conduct
20 the certification training programs and conduct education
21 courses.

22 (2) The department may authorize vendors to conduct the
23 administrator's certification training program pursuant to
24 provisions set forth in this section. The department shall conduct
25 the written test pursuant to regulations adopted by the
26 department.

27 (3) The department shall prepare and maintain an updated list
28 of approved training vendors.

29 (4) The department may inspect certification training
30 programs and continuing education courses to determine if
31 content and teaching methods comply with regulations. If the
32 department determines that any vendor is not complying with the
33 intent of this section, the department shall take appropriate action
34 to bring the program into compliance, which may include
35 removing the vendor from the approved list.

36 (5) The department shall establish reasonable procedures and
37 timeframes not to exceed 30 days for the approval of vendor
38 training programs.

39 (6) The department may charge a reasonable fee, not to exceed
40 one hundred fifty dollars (\$150) every two years to certification

1 program vendors for review and approval of the initial 35-hour
2 training program pursuant to subdivision (c). The department
3 may also charge the vendor a fee not to exceed one hundred
4 dollars (\$100) every two years for the review and approval of the
5 continuing education courses needed for recertification pursuant
6 to this subdivision.

7 (i) This section shall be operative upon regulations being
8 adopted by the department, no later than July 1, 1996, to
9 implement the administrator certification program as provided
10 for in this section. If regulations are not adopted by the
11 department, or are adopted after July 1, 1996, this section shall
12 not become operative.

13 (j) The department shall establish a registry for holders of
14 certificates that shall include, at a minimum, information on
15 employment status and criminal record clearance.

16 SEC. 6. Section 1562.4 of the Health and Safety Code is
17 amended to read:

18 1562.4. Any person who becomes an administrator of an
19 adult residential facility, as defined in paragraph (1) of
20 subdivision (a) of Section 1502, on or after July 1, 1996, shall, at
21 a minimum, fulfill all of the following requirements:

22 (a) Be at least 21 years of age.

23 (b) Provide documentation of having successfully completed
24 a certification program approved by the department and
25 successfully passing the state examination.

26 (c) Have a high school diploma or pass a general educational
27 development test as described in Article 3 (commencing with
28 Section 51420) of Chapter 3 of Part 28 of the Education Code.

29 (d) Obtain a criminal record clearance as provided for in
30 Sections 1522 and 1522.03.

31 SEC. 7. Article 9 (commencing with Section 1567.50) is
32 added to Chapter 3 of Division 2 of the Health and Safety Code,
33 to read:

34
35 Article 9. Adult Residential Facilities for Persons with Special
36 Health Care Needs: Licensing
37

38 1567.50. (a) Notwithstanding that a community care facility
39 means a place that provides nonmedical care under subdivision
40 (a) of Section 1502, pursuant to Article 3.5 (commencing with

1 Section 4684.50) of Chapter 6 of Division 4.5 of the Welfare and
2 Institutions Code, the department shall jointly implement with
3 the State Department of Developmental Services a pilot project
4 to test the effectiveness of providing special health care and
5 intensive support services to adults in homelike community
6 settings.

7 (b) The State Department of Social Services may license,
8 subject to the following conditions, an Adult Residential Facility
9 for Persons with Special Health Care Needs to provide 24-hour
10 services to up to five adults with developmental disabilities who
11 have special health care and intensive support needs, as defined
12 in subdivisions (f) and (g) of Section 4684.50 of the Welfare and
13 Institutions Code.

14 (1) The State Department of Developmental Services shall be
15 responsible for granting the certificate of program approval for
16 an Adult Residential Facility for Persons with Special Health
17 Care Needs (ARFPSHN). The State Department of Social
18 Services shall not issue a license unless the applicant has
19 obtained a certification of program approval from the State
20 Department of Developmental Services.

21 (2) The State Department of Social Services shall ensure that
22 the ARFPSHN meets the administration requirements under
23 Article 2 (commencing with Section 1520) including, but not
24 limited to, requirements relating to fingerprinting and criminal
25 records under Section 1522.

26 (3) The State Department of Social Services shall administer
27 employee actions under Article 5.5 (commencing with Section
28 1558).

29 (4) The regional center shall monitor and enforce compliance
30 of the program and health and safety requirements, including
31 monitoring and evaluating the quality of care and intensive
32 support services. The State Department of Developmental
33 Services shall ensure that the regional center performs these
34 functions.

35 (5) The State Department of Developmental Services may
36 decertify any ARFPSHN that does not comply with program
37 requirements. When the State Department of Developmental
38 Services determines that urgent action is necessary to protect
39 clients of the ARFPSHN from physical or mental abuse,
40 abandonment, or any other substantial threat to their health and

1 safety, the State Department of Developmental Services may
2 request the regional center or centers to remove the clients from
3 the ARFPSHN or direct the regional center or centers to obtain
4 alternative services for the consumers within 24 hours.

5 (6) The State Department of Social Services may initiate
6 proceedings for temporary suspension of the license pursuant to
7 Section 1550.5.

8 (7) The State Department of Developmental Services, upon its
9 decertification, shall inform the State Department of Social
10 Services of the licensee's decertification, with its
11 recommendation concerning revocation of the license, for which
12 the State Department of Social Services may initiate proceedings
13 pursuant to Section 1550.

14 (8) The State Department of Developmental Services and the
15 regional centers shall provide the State Department of Social
16 Services all available documentation and evidentiary support
17 necessary for any enforcement proceedings to suspend the
18 license pursuant to Section 1550.5, to revoke or deny a license
19 pursuant to Section 1551, or to exclude an individual pursuant to
20 Section 1558.

21 (9) The State Department of Social Services Community Care
22 Licensing Division shall enter into a memorandum of
23 understanding with the State Department of Developmental
24 Services to outline a formal protocol to address shared
25 responsibilities, including monitoring responsibilities, complaint
26 investigations, administrative actions, and closures.

27 (10) The licensee shall provide documentation that, in addition
28 to the administrator requirements set forth under paragraph (4) of
29 subdivision (a) of Section 4684.63 of the Welfare and Institutions
30 Code, the administrator, prior to employment, has completed a
31 minimum of 35 hours of initial training in the general laws,
32 regulations and policies and procedural standards applicable to
33 facilities licensed by the State Department of Social Services
34 under Article 2 (commencing with Section 1520). Thereafter, the
35 licensee shall provide documentation every two years that the
36 administrator has completed 40 hours of continuing education in
37 the general laws, regulations and policies and procedural
38 standards applicable to adult residential facilities. The training
39 specified in this section shall be provided by a vendor approved

1 by the State Department of Social Services and the cost of the
2 training shall be borne by the administrator or licensee.

3 (c) The article shall remain in effect only until January 1,
4 2010, and as of that date is repealed, unless a later enacted statute
5 extends or deletes that date.

6 (d) This article shall only be implemented to the extent that
7 funds are made available through an appropriation in the annual
8 Budget Act.

9 SEC. 8. Article 3.5 (commencing with Section 4684.50) is
10 added to Chapter 6 of Division 4.5 of the Welfare and
11 Institutions Code, to read:

12
13 Article 3.5. Adult Residential Facilities for Persons with
14 Special Health Care Needs: Pilot Program
15

16 4684.50. (a) (1) “Adult Residential Facility for Persons with
17 Special Health Care Needs (ARFPSHN)” means either of the
18 following:

19 (A) Any adult residential facility that provides 24-hour health
20 care and intensive support services in a homelike setting that is
21 licensed to serve up to five adults with developmental disabilities
22 as defined in Section 4512.

23 (B) Any residential care facility, for persons with a chronic,
24 life-threatening illness, that is licensed by the State Department
25 of Social Services pursuant to Chapter 3.01 (commencing with
26 Section 1568.01) of Division 2 of the Health and Safety Code.
27 However, an ARFPSHN may allow a person who has been
28 diagnosed by his or her physician or surgeon as having a terminal
29 illness, as defined in subdivision (h) of Section 4684.50, to reside
30 in the facility if the person receives hospice services from a
31 hospice certified in accordance with federal Medicare conditions
32 of participation and is licensed pursuant to Chapter 8
33 (commencing with Section 1725) or Chapter 8.5 (commencing
34 with Section 1745) of Division 2 of the Health and Safety Code.

35 (2) For purposes of this article, an ARFPSHN may be
36 established in a facility financed pursuant to Section 4688.5.

37 (b) “Consultant” means a person professionally qualified by
38 training and experience to give expert advice, information,
39 training, or to provide health-related assessments and

1 interventions specified in a consumer's individual health care
2 plan.

3 (c) "Direct care personnel" means all personnel who directly
4 provide program or nursing services to consumers.
5 Administrative and licensed personnel shall be considered direct
6 care personnel when directly providing program or nursing
7 services to clients. Consultants shall not be considered direct care
8 personnel.

9 (d) "Individual health care plan" means the plan that identifies
10 and documents the health care and intensive support service
11 needs of a consumer.

12 (e) "Individual health care plan team" means those individuals
13 who develop, monitor, and revise the individual health care plan
14 for consumers residing in an Adult Residential Facility for
15 Persons with Special Health Care Needs. The team shall, at a
16 minimum, be composed of all of the following individuals:

17 (1) Regional center service coordinator and other regional
18 center representative, as necessary.

19 (2) Consumer, and, where appropriate, his or her parents, legal
20 guardian or conservator, or authorized representative.

21 (3) Consumer's primary care physician, or other physician as
22 designated by the regional center.

23 (4) ARFPSHN administrator.

24 (5) ARFPSHN registered nurse.

25 (6) Others deemed necessary for developing a comprehensive
26 and effective plan.

27 (f) "Intensive support needs" means the consumer requires
28 physical assistance in performing four or more of the following
29 activities of daily living:

30 (1) Eating.

31 (2) Dressing.

32 (3) Bathing.

33 (4) Transferring.

34 (5) Toileting.

35 (6) Continence.

36 (g) "Special health care needs" means the consumer has health
37 conditions that are predictable and stable, as determined by the
38 individual health care plan team, and for which the individual
39 may require nursing supports for any of the following types of
40 care:

- 1 (1) Nutrition support, including total parenteral feeding and
- 2 gastrostomy feeding, and hydration.
- 3 (2) Cardiorespiratory monitoring.
- 4 (3) Oxygen support, including continuous positive airway
- 5 pressure and bilevel positive airway pressure, and use of other
- 6 inhalation-assistive devices.
- 7 (4) Nursing interventions for tracheostomy care and
- 8 suctioning.
- 9 (5) Nursing interventions for colostomy, ileostomy, or other
- 10 medical or surgical procedures.
- 11 (6) Special medication regimes including injection and
- 12 intravenous medications.
- 13 (7) Management of insulin-dependent diabetes.
- 14 (8) Manual fecal impaction, removal, enemas, or
- 15 suppositories.
- 16 (9) Indwelling urinary catheter/catheter procedure.
- 17 (10) Treatment for staphylococcus infection.
- 18 (11) Treatment for wounds or pressure ulcers (stages 1 and 2).
- 19 (12) Postoperative care and rehabilitation.
- 20 (13) Pain management and palliative care.
- 21 (14) Renal dialysis.
- 22 (h) “Terminal illness” means a medical condition resulting
- 23 from a prognosis of a life expectancy of six months or less, if the
- 24 disease follows its normal course.
- 25 4684.53. (a) The State Department of Developmental
- 26 Services and the State Department of Social Services shall jointly
- 27 implement a pilot project to test the effectiveness of providing
- 28 special health care and intensive support services to adults in
- 29 homelike community settings.
- 30 (b) The pilot project shall be implemented through the
- 31 following regional centers only:
- 32 (1) The San Andreas Regional Center.
- 33 (2) The Regional Center of the East Bay.
- 34 (3) The Golden Gate Regional Center.
- 35 (c) The regional centers participating in this pilot project may
- 36 contract for an aggregate total of services for no more than 120
- 37 persons in an ARFPSHN.
- 38 (d) Each ARFPSHN shall possess a community care facility
- 39 license issued pursuant to Article 9 (commencing with Section
- 40 1567.50) of Chapter 3 of Division 2 of the Health and Safety

Code, and shall be subject to the requirements of Chapter 1 (commencing with Section 80000) of Division 6 of Title 22 of the California Code of Regulations, except for Article 8 (commencing with Section 80090).

(e) For purposes of this article, a health facility licensed pursuant to subdivision (e) or (h) of Section 1250 may place its licensed bed capacity in voluntary suspension for the purpose of using the facility to operate an ARFPSHN if the facility is selected to participate in the pilot project pursuant to Section 4684.58. Consistent with subdivision (a) of Section 4684.50, any facility selected to participate in the program shall be licensed to serve up to five adults. A facility's bed capacity ~~may~~ *shall* not be placed in voluntary suspension ~~unless it is agreed to by the affected consumer or consumers, his or her parents, legal guardian or conservator, or authorized representative, and is until all consumers residing in the facility under the license to be suspended have been relocated. No consumer may be relocated unless it is~~ reflected in the consumer's individual program plan developed pursuant to Sections 4646 and 4646.5.

(f) Each ARFPSHN shall be subject to the requirements of Subchapters 5 through 9 of Chapter 1 of, and Subchapters 2 and 4 of Chapter 3 of, Division 2 of Title 17 of the California Code of Regulations.

(f) Each ARFPSHN shall ensure that an operable automatic fire sprinkler system is installed and maintained.

(g) Each ARFPSHN shall have an operable automatic fire sprinkler system that is approved by the State Fire Marshal and that meets the National Fire Protection Association (NFPA) 13D standard for the installation of sprinkler systems in single- and two-family dwellings and manufactured homes. A local jurisdiction shall not require a sprinkler system exceeding this standard by amending the standard or by applying standards other than NFPA 13D. A public water agency shall not interpret this section as changing the status of a facility from a residence entitled to residential water rates, nor shall a new meter or larger connection pipe be required of the facility.

(h) Each ARFPSHN shall provide an alternative power source to operate all functions of the facility for a minimum of six hours in the event the primary power source is interrupted. The alternative power source shall comply with Section 517-50 of the

1 California Electric Code. The alternative power source shall be
2 maintained in safe operating condition, and shall be tested every
3 14 days under the full load condition for a minimum of 10
4 minutes. Written records of inspection, performance, exercising
5 period, and repair of the alternative power source shall be
6 regularly maintained on the premises and available for inspection
7 by the State Department of Developmental Services.

8 4684.55. (a) No regional center may pay a rate to any
9 ARFPSHN for any consumer that exceeds the average annual
10 cost of serving a consumer at Agnews Developmental Center, as
11 determined by the State Department of Developmental Services.

12 (b) The payment rate for ARFPSHN services shall be
13 negotiated between the regional center and the ARFPSHN, and
14 shall be paid by the regional center under the service code
15 “Specialized Residential Facility (Habilitation).”

16 (c) The established rate for a full month of service shall be
17 made by the regional center when a consumer is temporarily
18 absent from the ARFPSHN 14 days or less per month. When the
19 consumer’s temporary absence is due to the need for inpatient
20 care in a health facility, as defined in subdivision (a), (b), or (c)
21 of Section 1250 of the Health and Safety Code, the regional
22 center shall continue to pay the established rate as long as no
23 other consumer occupies the vacancy created by the consumer’s
24 temporary absence, or until the individual health care plan team
25 has determined that the consumer will not return to the facility.
26 In all other cases, the established rate shall be prorated for a
27 partial month of service by dividing the established rate by 30.44
28 then by multiplying the quotient by the number of days the
29 consumer resided in the facility.

30 4684.58. The regional center may recommend for
31 participation, the State Department of Developmental Services,
32 an applicant for this pilot project when the applicant meets all of
33 the following requirements and has been selected through a
34 request for proposals process issued by one or more of the three
35 participating regional centers:

36 (a) The applicant employs or contracts with a program
37 administrator who has a successful record of administering
38 residential services for at least two years, as evidenced by
39 substantial compliance with the applicable state licensing
40 requirements.

(b) The applicant prepares and submits, to the regional center, a complete facility program plan that includes, but is not limited to, all of the following:

(1) The total number of the consumers to be served.

(2) A profile of the consumer population to be served, including their health care and intensive support needs.

(3) A description of the program components, including a description of the health care and intensive support services to be provided.

(4) A week's program schedule, including proposed consumer day and community integration activities.

(5) A week's proposed program staffing pattern, including licensed, unlicensed, and support personnel and the number and distribution of hours for such personnel.

(6) An organizational chart, including identification of lead and supervisory personnel.

(7) The consultants to be utilized, including their professional disciplines and hours to be worked per week or month, as appropriate.

(8) The plan for accessing and retaining consultant and health care services, including assessments, in the areas of physical therapy, occupational therapy, respiratory therapy, speech pathology, audiology, pharmacy, dietary/nutrition, dental, and other areas required for meeting the needs identified in consumers' individual health care plans.

(9) A description, including the size, layout, location, and condition of the proposed home.

(10) A description of the equipment and supplies available, or to be obtained, for programming and care.

(11) The type, location, and response time of emergency medical service personnel.

(12) The in-service training program plan for at least the next 12 months.

(13) The plan for ensuring that outside services are coordinated, integrated, and consistent with those provided by the ARFPSHN.

(14) Written certification that an alternative power system required by subdivision (g) of Section 4684.53 meets the manufacturer's recommendations for installation and operation.

1 (c) Submits a proposed budget itemizing direct and indirect
2 costs, total costs, and the rate for services.

3 (d) Certifies, in writing, that the applicant has the ability to
4 comply with all of the requirements of Section 1520 of the
5 Health and Safety Code.

6 (e) The regional center shall provide all documentation
7 specified in subdivisions (b) to (d), inclusive, of Section 4684.58
8 and a letter recommending program certification to the State
9 Department of Developmental Services.

10 (f) The State Department of Developmental Services shall
11 either approve or deny the recommendation and transmit its
12 written decision to the regional center and to the State
13 Department of Social Services within 30 days of its decision. The
14 decision of the State Department of Developmental Services not
15 to approve an application for program certification shall be the
16 final administrative decision.

17 (g) Any change in the ARFPSHN operation that alters the
18 contents of the approved program plan shall be reported to the
19 State Department of Developmental Services and the contracting
20 regional center, and approved by both agencies, prior to
21 implementation.

22 4684.60. The vendoring regional center shall, before placing
23 any consumer into an ARFPSHN, ensure that the ARFPSHN has
24 a license issued by the State Department of Social Services for
25 not more than five adults and a contract with the regional center
26 that includes, at a minimum, all of the following:

27 (a) The names of the regional center and the licensee.

28 (b) The purpose of the pilot project.

29 (c) A requirement that the contractor shall comply with all
30 applicable statutes and regulations, including Section 4681.1.

31 (d) The effective date and termination date of the contract.

32 (e) A requirement that, under no circumstances, shall the
33 contract extend beyond the stated termination date, which shall
34 not be longer than the pilot legislation end date of January 1,
35 2010.

36 (f) The definition of terms.

37 (g) A requirement that the execution of any amendment or
38 modification to the contract be in accordance with all applicable
39 federal and state statutes and regulations and be by mutual
40 agreement of both parties.

1 (h) A requirement that the licensee and the agents and
2 employees of the licensee, in the performance of the contract,
3 shall act in an independent capacity, and not as officers or
4 employees or agents of the regional center.

5 (i) A requirement that the assignment of the contract for
6 consumer services shall not be allowed.

7 (j) The rate of payment per consumer.

8 (k) Incorporation, by reference, of the ARFPSHN's approved
9 program plan.

10 (l) A requirement that the contractor verify, and maintain for
11 the duration of the project, possession of commercial general
12 liability insurance in the amount of at least one million dollars
13 (\$1,000,000) per occurrence.

14 (m) Contractor performance criteria.

15 (n) An agreement to provide, to the evaluation contractor
16 engaged pursuant to subdivision (a) of Section 4684.74, all
17 information necessary for evaluating the project.

18 4684.63. (a) Each ARFPSHN shall do all of the following:

19 (1) Meet the minimum requirements for a Residential Facility
20 Service Level 4-i pursuant to Sections 56004 and 56013 of Title
21 17 of the California Code of Regulations, and ensure that all of
22 the following conditions are met:

23 (A) That a licensed registered nurse, licensed vocational nurse,
24 or licensed psychiatric technician, is awake and on duty 24-hours
25 per day, seven days per week.

26 (B) That a licensed registered nurse is awake and on duty at
27 least eight hours per person, per week.

28 (C) That at least two staff on the premises are awake and on
29 duty when providing care to four or more consumers.

30 (2) Ensure the consumer remains under the care of a physician
31 at all times and is examined by the primary care physician at
32 least once every 60 days, or more often if required by the
33 consumer's individual health care plan.

34 (3) Ensure that an administrator is on duty at least 20 hours per
35 week to ensure the effective operation of the ARFPSHN.

36 (4) The administrator shall have at least one year of
37 administrative and supervisory experience in a licensed
38 residential program for persons with developmental disabilities
39 and shall meet one or more of the following qualifications:

40 (A) Be a licensed registered nurse.

1 (B) Be a licensed nursing home administrator.

2 (C) Be a licensed psychiatric technician with at least five years
3 of experience serving individuals with developmental disabilities.

4 (D) Be an individual with a bachelors degree in the health or
5 human services field and two years experience working in a
6 licensed residential program for persons with developmental
7 disabilities and special health care needs.

8 (b) The regional center may require an ARFPSHN to provide
9 additional professional, administrative, or supportive personnel
10 whenever the regional center determines, in consultation with the
11 individual health care plan team, that additional personnel are
12 needed to provide for the health and safety of consumers.

13 (c) ARFPSHNs may utilize appropriate staff from Agnews
14 Developmental Center, as set forth in the plan developed
15 pursuant to Section 4474.1.

16 (d) All direct care personnel shall be subject to the training
17 requirements specified in Section 4695.2.

18 4684.65. (a) A regional center shall not place, or fund the
19 placement for, any consumer in an ARFPSHN until the
20 individual health care plan team has prepared a written individual
21 health care plan that can be fully and immediately implemented
22 upon the consumer's placement.

23 (b) (1) An ARFPSHN shall only accept, for initial admission,
24 consumers who meet the following requirements:

25 (A) Reside at Agnews Developmental Center at the time of the
26 proposed placement.

27 (B) Have an individual program plan that specifies placement
28 in an ARFPSHN.

29 (C) Have special health care and intensive support needs.

30 (2) Except as provided in paragraph (3), when a vacancy in an
31 ARFPSHN occurs due to the permanent relocation or death of a
32 resident, the vacancy may only be filled by a consumer who
33 meets the requirements of paragraph (1).

34 (3) If there is no resident residing at Agnews Developmental
35 Center who meets the requirements of subparagraphs (B) and (C)
36 of paragraph (1), a vacancy may be filled by a consumer who is
37 residing at another developmental center or who is at risk of
38 placement into a developmental center, as determined by the
39 regional center, and who meets the requirements of
40 subparagraphs (B) and (C) of paragraph (1).

1 (c) The ARFPSHN shall not admit a consumer if the
2 individual health care plan team determines that the consumer is
3 likely to exhibit behaviors posing a threat of substantial harm to
4 others, or has a serious health condition that is unpredictable or
5 unstable. A determination that the individual is a threat to others
6 may only be based on objective evidence or recent behavior and
7 a determination that the threat cannot be mitigated by reasonable
8 interventions.

9 4684.68. (a) The individual health care plan shall include, at
10 a minimum all of the following:

11 (1) An evaluation of the consumer's current health.

12 (2) A description of the consumer's ability to perform the
13 activities of daily living.

14 (3) A list of all current prescription and nonprescription
15 medications the consumer is using.

16 (4) A list of all health care and intensive support services the
17 consumer is currently receiving or may need upon placement in
18 the ARFPSHN.

19 (5) A written statement from the consumer's primary care
20 physician familiar with the health care needs of the consumer, or
21 other physician as designated by the regional center, that the
22 consumer's medical condition is predictable and stable, and that
23 the consumer's level of care is appropriate for the ARFPSHN.

24 (6) Provision for the consumer to be examined by his or her
25 primary care physician at least once every 60 days, or more
26 frequently if indicated.

27 (7) A list of the appropriate professionals assigned to provide
28 the health care as described in the plan.

29 (8) A description of, and plan for providing, any training
30 required for all direct care personnel to meet individuals' needs.

31 (9) The name of the individual health care plan team member,
32 and an alternate designee, who is responsible for day-to-day
33 monitoring of the consumer's health care plan and ensuring its
34 implementation as written.

35 (10) Identification of the legally authorized representative to
36 make health care decisions on the consumer's behalf, if the
37 consumer lacks the capacity to give informed consent.

38 (11) The name and telephone number of the person or persons
39 to notify in case of an emergency.

1 (12) The next meeting date of the individual health care plan
2 team, which shall be at least every six months, to evaluate and
3 update the individual health care plan.

4 (b) In addition to Section 80075 of Title 22 of the California
5 Code of Regulations, the ARFPSHN shall comply with all of the
6 following requirements:

7 (1) Medications shall be given only on the order of a person
8 lawfully authorized to prescribe.

9 (2) Medications shall be administered as prescribed and shall
10 be recorded in the consumer record. The name and title of the
11 person administering the medication or treatment, and the date,
12 time, and dosage of the medication administered shall be
13 recorded. Initials may be used provided the signature of the
14 person administering the medication or treatment is recorded on
15 the medication or treatment record.

16 (3) Preparation of dosages for more than one scheduled
17 administration time shall not be permitted.

18 (4) Persons administering medications shall confirm each
19 consumer's identity prior to the administration.

20 (5) Medications shall be administered within two hours after
21 dosages are prepared and shall be administered by the same
22 person who prepared the dosages. Dosages shall be administered
23 within one hour of the prescribed time unless otherwise indicated
24 by the prescriber.

25 (6) All medications shall be administered only by those
26 persons specifically authorized to do so by their respective scope
27 of practice.

28 (7) No medication shall be administered to or used by any
29 consumer other than the consumer for whom the medication was
30 prescribed.

31 (8) Medication errors and adverse drug reactions shall be
32 recorded and reported immediately to the practitioner who
33 ordered the drug or another practitioner responsible for the
34 medical care of the consumer. Minor adverse reactions which are
35 identified in the literature accompanying the product as a usual or
36 common side effect, need not be reported to the practitioner
37 immediately, but in all cases shall be recorded in the consumer's
38 record. Medication errors include, but are not limited to, the
39 failure to administer a drug ordered by a prescriber within one

1 hour of the time prescribed, administration of any drugs other
2 than prescribed or the administration of a dose not prescribed.

3 4684.70. (a) The State Department of Social Services, in
4 administering the licensing program, shall not have any
5 responsibility for evaluating consumers' level of care or health
6 care provided by ARFPSHN. Any suspected deficiencies in a
7 consumer's level of care or health care identified by the State
8 Department of Social Services' personnel shall be reported
9 immediately to the appropriate regional center and the State
10 Department of Developmental Services for investigation.

11 (b) The regional center shall have responsibility for
12 monitoring and evaluating the implementation of the consumer's
13 individual plan objectives, including, but not limited to, the
14 health care and intensive support service needs identified in the
15 consumer's individual health care plan and the consumer's
16 integration and participation in community life.

17 (c) For each consumer placed in an ARFPSHN, the regional
18 center shall assign a service coordinator pursuant to subdivision
19 (b) of Section 4647.

20 (d) The regional center service coordinator shall visit the
21 consumer, in person, at least monthly in the ARFPSHN, or more
22 frequently if specified in the consumer's individual health care
23 plan.

24 (e) The State Department of Developmental Services shall
25 monitor and ensure the regional centers' compliance with the
26 requirements of this article. The monitoring shall include onsite
27 visits to all the ARFPSHNs at least every six months for the
28 duration of the pilot project.

29 4684.73. (a) In addition to any other contract termination
30 provisions, a regional center may terminate its contract with an
31 ARFPSHN when the regional center determines that the
32 ARFPSHN is unable to maintain substantial compliance with
33 state laws, regulations, or its contract with the regional center, or
34 the ARFPSHN demonstrates an inability to ensure the health and
35 safety of the consumers.

36 (b) The ARFPSHN may appeal a regional center's decision to
37 terminate its contract by sending, to the executive director of the
38 contracting regional center, a detailed statement containing the
39 reasons and facts demonstrating why the termination is
40 inappropriate. The appeal must be received by the regional center

1 within 10 working days from the date of the letter terminating the
2 contract. The executive director shall respond with his or her
3 decision within 10 working days of the date of receipt of the
4 appeal from the ARFPSHN. The executive director shall submit
5 his or her decision to the State Department of Developmental
6 Services on the same date that it is signed. The decision of the
7 executive director shall be the final administrative decision.

8 (c) The Director of Developmental Services may rescind an
9 ARFPSHN's program certification when, in his or her sole
10 discretion, an ARFPSHN does not maintain substantial
11 compliance with an applicable statute, regulation, or ordinance,
12 or cannot ensure the health and safety of the consumers. The
13 decision of the Director of Developmental Services shall be the
14 final administrative decision. The Director of Developmental
15 Services shall transmit his or her decision rescinding an
16 ARFPSHN's program certification to the State Department of
17 Social Services and the regional center with his or her
18 recommendation as to whether to revoke the ARFPSHN's
19 license.

20 (d) Notwithstanding any other provision of law, in those
21 instances where the ARFPSHN licensee is providing services in
22 a facility owned pursuant to Section 4688.5, if for any reason the
23 licensee is unable to continue to provide services to consumers in
24 the facility, upon a date to be set by the regional center or the
25 department, the licensee shall turn over to the new licensee as
26 determined by the regional center all information, property, and
27 documents related to the operation of the facility and the
28 provision of services to the consumers. Thereupon, the licensee
29 and those employees, as shall be determined by either the
30 regional center or the department, shall peaceably quit the
31 premises. The department or the regional center shall take all
32 steps permitted by this article to ensure that at all times the
33 consumers who are residing in the facility receive services set
34 forth in their individual health care plans.

35 4684.74. (a) By July 1, 2006, the State Department of
36 Developmental Services shall contract with an independent
37 agency or organization to evaluate the pilot project and prepare a
38 written report of its findings. The scope of services for the
39 contractor shall be jointly prepared by the State Department of
40 Developmental Services, the State Department of Social

Services, and the State Department of Health Services and, at a minimum, shall address all of the following:

(1) The number, business status, and location of all the ARFPSHNs.

(2) The number and characteristics of the consumers served.

(3) The effectiveness of the pilot project in addressing consumers' health care and intensive support needs.

(4) The extent of consumers' community integration and satisfaction.

(5) The consumers' access to, and quality of, community-based health care and dental services.

(6) The types, amounts, qualifications, and sufficiency of staffing.

(7) The overall impressions, problems encountered, and satisfaction with the ARFPSHN service model by ARFPSHN employees, regional center participants, state licensing and monitoring personnel, and consumers and families.

(8) The costs of all direct, indirect, and ancillary services.

(9) An analysis and summary findings of all ARFPSHN consumer special incident reports and unusual occurrences reported during the evaluation period.

(10) The recommendations for improving the ARFPSHN service model.

(11) The cost-effectiveness of the ARFPSHN model of care compared with other existing public and private models of care serving similar consumers.

(b) The contractor's written report shall be submitted to the State Department of Developmental Services, the State Department of Social Services, the State Department of Health Services, and to the Legislature by January 1, 2009.

4684.75. (a) The State Department of Developmental Services may adopt emergency regulations to implement this article. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the State Department of Developmental Services is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these

1 implementing regulations shall be filed within 24 months
2 following the adoption of the first emergency regulations filed
3 pursuant to this section.

4 (b) This article shall remain in effect only until January 1,
5 2010, and as of that date is repealed, unless a later enacted statute
6 extends or deletes that date.

7 (c) This article shall only be implemented to the extent that
8 funds are made available through an appropriation in the annual
9 Budget Act.

10 SEC. 9. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the
15 penalty for a crime or infraction, within the meaning of Section
16 17556 of the Government Code, or changes the definition of a
17 crime within the meaning of Section 6 of Article XIII B of the
18 California Constitution.